

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MARVIN PICKLE	§	
v.	§	CIVIL ACTION NO. 6:16cv842
TEXAS DEPARTMENT OF CRIMINAL JUSTICE, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

This lawsuit was part of a larger case and was severed out into its own civil action. As part of the order of severance, the Plaintiff Marvin Pickle was ordered to file an amended complaint and to either pay the statutory \$400 filing fee or seek leave to proceed *in forma pauperis*. When Pickle did not comply, the Magistrate Judge to whom the case was referred issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court.

Pickle did not file objections to this Report; instead, he submitted an application for leave to proceed *in forma pauperis*. Pickle has not complied with nor even mentioned the order that he file an amended complaint, nor did he object to the Magistrate Judge's recommendation that the lawsuit be dismissed because of his failure to file an amended complaint. Accordingly, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See*

United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 4) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

So Ordered and Signed

Mar 3, 2017



Ron Clark, United States District Judge